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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 450,399	11 29 1999	ROLF BRUCK	E-40456	7581

7590 09 03 2002

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EXAMINER

TRAN, HIEN THI

ART UNIT	PAPER NUMBER
	1764

DATE MAILED: 09/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/450,399	BRUCK ET AL.
	Examiner Hien Tran	Art Unit 1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE DATE OF THIS COMMUNICATION.

THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may it exceed:
    - after SIX (6) MONTHS from the mailing date of this communication
    - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
    - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication
    - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
    - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                  2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-24 are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
  - 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
  - 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-11, drawn to an assembly for cleaning exhaust gas, classified in class 422, subclass 180.
  - II. Claims 12-17, drawn to a method for producing an assembly for cleaning exhaust gas, classified in class 29, subclass 890.
  - III. Claims 18-24, drawn to a muffler for an exhaust system of a small engine, classified in class 422, subclass 168.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make other and material different product, such as the one comprising a ceramic catalyst carrier body.
3. Inventions I, II are unrelated to invention III. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the inventions I and II do not require the specific muffler with the dividing wall of invention III and the invention III do not require the carrier body with the specific retaining element of inventions I and II.

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4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, recognized divergent subject matter and the search required for Group I is not required for Groups II and III, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien Tran whose telephone number is 308-4253. The examiner can normally be reached on Tuesday-Friday from 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knodle can be reached on 308-4311. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0661.

HT  
September 2, 2002

*Hien Tran*  
**Hien Tran**  
**Primary Examiner**  
**Art Unit 1764**